

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Wood
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FILE: B-210910

DATE: March 30, 1983

MATTER OF: Trinity Services, Inc.

DIGEST:

A protest that questions a bidder's responsibility based on that bidder's submission of an excessively low bid will not be considered under GAO's Bid Protest Procedures in the absence of circumstances not present here.

Trinity Services, Inc. protests the award of a contract to Stoehner Service Systems, Inc. under invitation for bids (IFB) No. F08621-83-B-0012 issued by Homestead Air Force Base, Florida. The protester contends that Stoehner is not responsible because its bid was excessively low. The protester also objects to the determination that its bid was nonresponsive because its bid bond was delivered 1 day after bid opening. The protest is dismissed.

The submission of a bid that a competitor considers too low does not constitute a legal basis for precluding the award of a contract. Contra Costa Electric, B-206487.2, May 7, 1982, 82-1 CPD 440. Rather, the question necessarily is whether the bidder can perform the contract at its bid price, a question relating to the bidder's responsibility. ADJL Enterprises, B-208322, September 15, 1982, 82-2 CPD 226. In this case, the contracting officer determined that Stoehner is a responsible contractor. This Office does not review such affirmative determinations of responsibility absent a showing of fraud or bad faith, or that definitive responsibility criteria in the solicitation were not met. See Bid Protest Procedures, 4 C.F.R. § 21.3(g)(4), as added by 48 Fed. Reg. 1931 (1983). The protester does not allege either here. This aspect of the protest is dismissed.

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As a second basis for this protest, the protester objects to the rejection of its bid as nonresponsive. Since we have no basis to object to the award to the low bidder, Stoehner, the question of whether the protester's higher bid was responsive is academic since the protester would not be entitled to the award even if its bid were responsive. Thus, we will not decide this matter.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel